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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,826	10/07/2005	Satoshi Yasui	Q90673	9465
23373	7590	01/12/2009	EXAMINER	
SUGHRUE MION, PLLC			STEELE, JENNIFER A	
2100 PENNSYLVANIA AVENUE, N.W.				
SUITE 800			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20037			1794	
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			01/12/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/552,826	YASUI ET AL.	
	Examiner	Art Unit	
	JENNIFER STEELE	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 October 2008.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7,9-16 and 18-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-7,9-16 and 18-24 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/30/2008</u> . | 6) <input type="checkbox"/> Other: _____ . |

Drawings

1. A. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

- i. The specification has not been amended to include the Fig. 15(A) reference or describe section A-A noted on Fig. 15(A).
- ii. The specification has not been amended to include the Fig. 16(A) and 16(B) reference to items 41, 41a, 41b, 42 and 43.

B. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the islands in the sea weave of claim 13 and the triple layer woven or knit fabric of claim 15 must be shown or the feature(s) canceled from the claim(s). The drawings submitted are incomplete as stated in paragraph I a. and b. above. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be

notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. **Claim 1-5, 7,9,12,16 and 18-20 rejected under 35 U.S.C. 103(a) as obvious over Doi et al (US 6,403,216) in further view of DuFour (US 4,500,679).** Claim 1 describes A woven or knitted fabric containing two types of yarns different from each other in self-elongating property upon absorbing water wherein

- When a test piece is prepared from the fabric in such a manner that said woven or knitted fabric is stabilized in dimension in the atmosphere having a temperature at 20°C and a relative humidity at 65% and then cut into

pieces of 30 cm long in the warp or wale direction and 30 cm long in the weft or course direction and

- Yarns (1) having a high water-absorbing and self-elongating property and
- Yarns (2) having a low water-absorbing and self-elongation property and
- Respectively contained in the test pieces satisfy the following requirement:

$A/B < 0.9$

- Wherein A represents a mean length of yarns (1) having high water-absorbent and self-elongative property and
- B represents a mean length of said yarns (2) having low water-absorbing and self-elongating property,
- The yarns (1) and (2) being arranged in the same direction as each other in the test piece and picked up from the test piece; the length of the respective yarn being measured under a load of 1.76 mN/dtex when the yarn is a non-elastic yarn having an elongation at break of 200% or less or under a load of 0.0088 mN/dtex
- when the yarn is an elastic yarn having an elongation at break higher than 200% and
- whereby the air-permeability of said fabric increases when wetting with water
- and yarns (1) having a high water-absorbing, self-elongating property are constituted from polyetherester fibers formed from polyetherester elastomer comprising

- hard segments comprising polybutylene terephthalate blocks and soft segments comprising polyoxyethylene glycol blocks
- having a number average molecular weight of 1,000 to 6,000 and the ratio by mass of hard segments to the soft segments in the polyetherester elastomer is in the range of from 30/70 to 70/30.

Doi teaches a woven fabric, a weft knit and a warp knit structure can be produced of these yarns. Doi teaches structures where the moisture absorbing fiber may be mixed with other materials and fibers such that the other fibers have different shrinkage or higher strength (col. 15. line 1). Doi teaches knit structures wherein the moisture absorbing fiber is used as the back thread of a half tricot knit or laid in via a back thread guide of a power net or satin structure (col. 15, lines 25-31). Doi teaches the synthetic fiber can be used in a form of bare yarn knit to form knitting loops together with another fiber yarn or may be converted to a composite yarn (col. 15, lines 40-42). Doi teaches the synthetic fiber can be used in the warp and weft yarns or just as the weft yarns (col. 15, lines 50-53). Therefore Doi teaches a woven or knitted fabric containing two types of yarns different from each other in self-elongating property upon absorbing water.

Doi teaches a synthetic fiber with moisture-absorbing/releasing property and exhibits high elongation and high stretch recovery characterized in that it has moisture absorption ratios of 0.5 to 4% by weight. Doi teaches the synthetic fiber maintains a high strength at break of an elastic fiber component also in the state of having absorbed

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moisture, and can be used for manufacturing a stretch fiber fabric product that is comfortable by blending with another fiber material (ABST).

Doi teaches the synthetic fiber has an elongation at break of 300% or more and an elastic recovery of 70% (col. 4, lines 10-12). The moisture absorbing/releasing property of the high elongation and high stretch-recovery synthetic fiber is adjustable by blending a desired amount of a compound having an amount water absorption ratio. Doi teaches a high stretch/high elongation fiber can have a desired amount of moisture absorption (col. 4, lines 29-47). Doi teaches polyurethane type and polyether-ester type synthetic fibers obtained by ordinary melt-spinning and there is no limitation in the water absorption resins to be blended or water adsorption components to be graft-polymerized.

Doi teaches the synthetic fiber according to the present invention may be mixed with other materials in accordance with the use thereof, in which there is not limitation in kind, form and size thereof. For example, the material includes natural fiber, or synthetic fibers such as polyester or nylon and further elastic fiber having no moisture absorbability. A spun yarn mixed spun with natural fiber, an enabled mixed yarn mixed with fiber having different shrinkage or high strength. A twisted union yarn, a composite false twisted yarn or a double feed type air jet textured yarn may be used (col. 14, lines 58-67, col. 15, lines 1-10).

Doi teaches a polyether-ester type synthetic fiber is one having hard segment including for example aromatic polyester such a polytetramethylene terephthalate, polytrimethylene terephthalate or polyethylene terphthalate and soft segment including

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aliphatic polyether glycol such as polytetramethylene glycol or polypropylene glycol (col. 13, lines 39-47). Doi differs from the current application and does not teach a polyetherester fiber produced from polybutylene terephthalate and polyoxyethylene glycol blocks. Doi differs and does not teach the number average molecular weight of the polyoxyethylene glycol for the soft segments and does not teach the mass ratio of hard segments to soft segments.

DuFour teaches a thermoplastic copolyetherester elastomer that is a segmented polymer comprising about 30% to 80% by weight of soft segments and 70% to 20% by weight of hard segments. DuFour teaches the polyetherester is a fiber-forming polyester. DuFour teaches the soft segments are polyether glycols having a number average from about 350 to 6000 (col. 2, lines 6-25). DuFour teaches hard segments of polybutylene terephthalate (col. 4, lines 47 and 61).

It would have been obvious to one of ordinary skill in the art to employ a polyether-ester fiber comprised of polybutylene terephthalate and polyethylene glycol as taught by DuFour motivated to produce an elastic fiber suitable for fabrics that comfortable and moisture absorbent.

As to claims 1-3, 12 and 18 Doi differs from the current application and does not teach the property of $A/B \leq 0.9$, the property of self-elongation of yarn(%)=[(Lw-Ld)/(Ld)]x100, the property of difference in elongation (E_1-E_2) and the property of air permeability and change in roughness. As Doi teaches the structure and materials of the current application it is presumed that fabric of Doi would have the same properties as the claimed invention. When the reference discloses all the limitations of a claim

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except a property or function, and the examiner cannot determine whether or not the reference inherently possesses properties which anticipate or render obvious the claimed invention the examiner has basis for shifting the burden of proof to applicant as in *In re Fitzgerald*, 619 F.2d 67, 205 USPQ 594 (CCPA 1980). See MPEP § 2112-2112.02

As to claims 4 and 5, Doi teaching knit and woven structures wherein a composite or mixed yarn are combined in parallel to form yarn loops and wherein in the combined yarns form at least one of warps and wefts as stated above in paragraph 3.

As to claims 7, Doi teaches a composite yarn of a the moisture absorbing synthetic fiber and one of other fibers that include synthetic or natural fibers that do not have the moisture absorbing and elongating properties of the synthetic fiber of the invention.

As to claim 9, Doi teaches using another yarn in addition to the invented moisture absorbing, elongated yarn, can be of polyester (col. 9, lines 44).

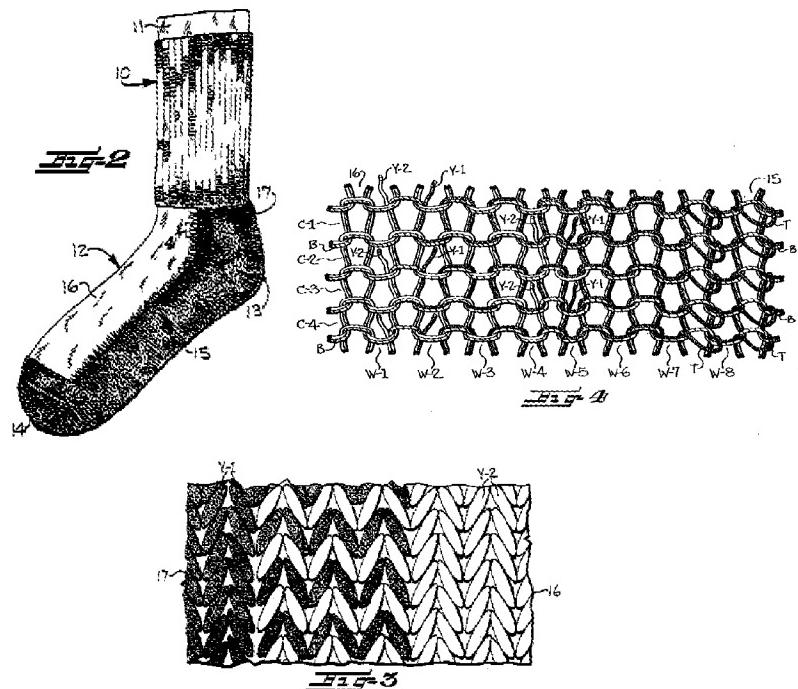
As to Claim 16, Doi teaches embodiments with a knitted structure of yarn density satisfying the formula in claim 16. Doi teaches in example 13 a knit fabric of yarn density 75 course/in and 48 wale/in which is equal to 3600.

As to claim 19, Doi teaches woven structures where the synthetic fiber can be used in the warp and weft yarns or just as the weft yarns (col. 15, lines 50-53).

As to claim 20, Doi teaches a covered yarn wherein the absorbing synthetic fiber is covered by another yarn and Doi teaches mixing yarns and fibers to obtain a blended yarn.

3. **Claim 6 and 13 rejected under 35 U.S.C. 103(a) as being unpatentable over Doi et al (US 6,403,216) in view of DuFour (US 4,500,679) and in further view of Chesebro, Jr. (US 5,095,548).** Doi in view of DuFour differs from the current application and does not teach alternating the composite yarn with the other yarn. Chesebro teaches a moisture control sock where moisture control characteristics are imparted to the sock by a hydrophobic yarn knit in plated relationship with the body yarn in partial courses extending throughout the sole and a hydrophilic yarn knit in plated relationship with the body yarn in partial courses extending throughout the instep (ABST). As to claim 5 and 6, the structure of Chesebro can be used in a woven fabric in that the parallel yarn relationship throughout the fabric and Chesebro changes the pattern of the yarns throughout the sock to provide different characteristics at different places in the sock in order to absorb moisture or allow moisture to evaporate (Fig. 4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a knit structure of Chesebro incorporating two yarns of different moisture absorbing properties knit in parallel motivated to produce a fabric with moisture absorbing properties.

As to Claim 13, Doi differs from the current application and does not teach a fabric with areas of high moisture absorbing yarns and area of low moisture absorbing yarns. Chesebro teaches a sock with a knit pattern so as to have areas where the sock is hydrophobic and areas where the sock is hydrophilic as illustrated in Fig. 2-4.



In comparison to Applicant's Fig. 11 and 1(A) and (B) and 15(A) and 15(B)
shown below.

Fig.11

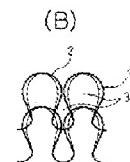
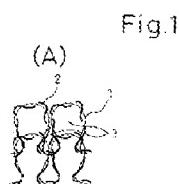
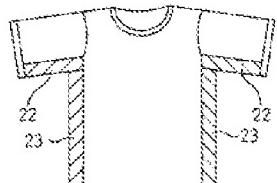
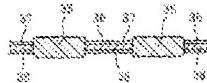


Fig. 15(A)

A	Wet	Dry	Wet	Dry	Wet	Dry
P ₁₁₁₁ → →	36	37	36	37	36	37
P ₁₁₁₂ → →	36	37	36	37	36	37
P ₁₁₂₁ → →	36	37	36	37	36	37
P ₁₁₂₂ → →	36	37	36	37	36	37

Fig. 15(B)



It would have been obvious to one of ordinary skill in the art to have employed a knit pattern in the fabric of Doi motivated to produce a fabric with varying moisture absorption properties throughout the fabric.

4. **Claim 10, 11, 21-24 rejected under 35 U.S.C. 103(a) as being unpatentable over Doi et al (US 6,403,216) in view of DuFour (US 4,500,679) and in further view of Dawson (US 6,770,579).** Doi teaches a synthetic fiber capable of absorbing and disabsorbing moisture comprising a component capable of absorbing and disabsorbing moisture and a fiber-forming polymer. Doi teaches that the water absorbing yarn swells

which would infer that it changes (col. 8, lines 4-52), however Doi differs and does not measure the change in the open areas that results from absorbing moisture. Doi differs from the current application and does not teach air permeability.

Dawson teaches a material which controls porous properties in relation to changes in local environment thus allowing fluids to pass through the film or material (ABST). Dawson teaches a material comprising at least two layers having different fluid absorption properties. Dawson teaches that the layers are cut to provide a plurality of close fitting flaps through the film or material. When the different layers absorb moisture at different rates and one layer swells, the strain differences between the layers caused by their different fluid absorption properties will cause the flaps to bend providing a plurality of openings in the layer (col. 1, lines 37-44). Dawson teaches a change in porous properties which is equated with permeability.

When the reference discloses all the limitations of a claim except a property or function, and the examiner cannot determine whether or not the reference inherently possesses properties which anticipate or render obvious the claimed invention the examiner has basis for shifting the burden of proof to applicant as in *In re Fitzgerald*, 619 F.2d 67, 205 USPQ 594 (CCPA 1980). See MPEP §§ 2112- 2112.02

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a fiber that swells and changes dimension when absorbing moisture in order to change the material or fabric motivated to produce a fabric that changes air permeability when the fabric is wet and when the fabric is dry.

As to claims 22-24 that are dependent on claim 21, these claims are drawn to statements of use and do not distinguish the claimed invention from prior art. However, Doi and Dawson both teach fabric for use in garments, sportswear and underwear.

5. **Claim 14 and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Doi et al (US 6,403,216) in further view of DuFour (US 4,500,679) and in further view of Safrit et al. (US 4,341,096).** Doi in view of DuFour differs from the current application and does not teach a three layer fabric. Safrit teaches a three layer knitted fabric that provides cushioning and moisture absorbing characteristics. Safrit teaches inside and outside fabric layers of hydrophobic yarn and the intermediate layer of hydrophilic yarn. While Safrit teaches a moisture absorbing layer as the intermediate layer and moisture disabsorbing layers on the outside and the current application teaches the outside layers are the moisture absorbing layers, it would have been obvious to one of ordinary skill in the art at the time the invention was made to produce a moisture absorbing fabric with three layers motivated to produce fabric that removes perspiration from the body and allows the moisture to evaporate into the air.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claim 1-24 provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim1-20 of copending Application No. 10/548630. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications teach a fiber and fabric of two yarns in a knitted or woven structure wherein one yarn absorbs moisture and the other yarn does not.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

7. Applicant submitted new drawings in response to the objection over claims 13 and 15 that the features are not shown in the drawings. As presented the drawings and specification do not provide the drawing details, description of the numbered features shown, and the Objection to the drawings is maintained.

8. Applicant's amended claim 1 to add the limitation that the polyoxyethylene glycol blocks have a number average molecular weight of 1,000 to 6,000 and the ratio of hard to soft segments in the polyetherester elastomer is in the range of 30/70 to 70/30. As a

result of the amendment the 35 USC 103(a) rejection over Doi in view of the Kopnick of claims 1-5, 7, 9, 12, 16 and 18-20 has been withdrawn. Applicant's arguments are not persuasive and new 35 USC 103(a) rejection over Doi in view of DuFour is presented in this office action.

9. Applicant argues that Doi does not teach a polyetherester elastomer fiber in Examples 1 to 17. While Examiner agrees that Doi does not teach using polyetherester elastomer fiber in the examples, and the examples are using a polyurethane-urea elastic fiber, Doi does teach that polyetherester fibers can be substituted in the woven or knit structure of Doi which is intended to be an elastic fabric that has moisture absorbing properties and is comprised of an elastic, moisture absorbing fiber or yarn mixed, woven or blended with a nonelastic, non moisture absorbing yarn such as a regular polyester. Reference to Doi's disclosure teaching the polyetherester type fibers is noted in the present Office Action paragraph 2 as found in Doi (col. 13, lines 39-47). "The use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. They are part of the literature of the art, relevant for all they contain." In re Heck, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).

10. Reference to Kopnick's article on Polyesters has been withdrawn as Kopnick does not teach the limitation that the polyoxyethylene glycol blocks have a number

average molecular weight of 1,000 to 6,000 and the ratio of hard to soft segments in the polyetherester elastomer is in the range of 30/70 to 70/30.

11. The previous rejection over the reference to claims 6 and 13 over Chesebro, Jr. is maintained however revised as 35 USC 103(a) rejection is over Doi in view of DuFour and in further view of Chesebro, Jr. Applicant argues that Chesebro, Jr. does not teach the high water-absorbing and self-elongating yarns (1). Chesebro is relied upon for teaching a knitted structure were yarns with the properties of moisture absorbance and elasticity can be formed into a knitted structure with yarns that do not have these properties. Chesebro presents a finding that one of ordinary skill in the art could have combined the features of elastic yarns, moisture absorbing yarns in a knit structure, so that the yarns are arranged in Applicant's island and sea order and the results of the combination would have a reasonable expectation of success.

12. The previous rejection over the reference to claims 10, 11, 21-24 over Dawson is maintained however revised to reference DuFour. Applicant argues that Dawson does not teach the high water-absorbing and self-elongating yarns (1) and that Dawson is silent to the feature of $A/B<0.9$. Dawson is relied upon for teaching that the property of elongation or a change in dimension when absorbing moisture can be combined into a fabric where the permeability and porosity changes are a result of this change in dimension. Dawson presents a finding that one of ordinary skill in the art could have employed a combination of moisture absorbing materials and non-moisture absorbing

materials in a fabric motivated to provide a change in permeability and the results of the combination would have a reasonable expectation of success.

13. The previous rejection over the reference to claims 14 and 15 over Safrit is maintained however revised as 35 USC 103(a) rejection is over Doi in view of DuFour and in further view of Safrit. Applicant argues that Safrit does not teach the high water-absorbing and self-elongating yarns (1). Safrit is relied upon for teaching that it is known in the art to produce a three layer structure that has different moisture absorbing properties. Safrit presents a finding that one of ordinary skill in the art could have employed a three layer structure with the moisture absorbing and non-moisture absorbing yarns of Doi and the results of the combination would have a reasonable expectation of success.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENNIFER STEELE whose telephone number is (571)272-7115. The examiner can normally be reached on Office Hours Mon-Fri 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Tarazano can be reached on (571) 272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. S./
Examiner, Art Unit 1794

1/4/2009

/D. Lawrence Tarazano/
Supervisory Patent Examiner, Art
Unit 1794